

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
NOVEMBER 14, 2018**

CALL TO ORDER <i>5:59 pm</i>	A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Ave West, Kalispell, Montana. Board members present were Jeff Larsen, Greg Stevens, Sandra Nogal, Dean Sirucek, Ron Schlegel, and Kevin Lake. Jim Thompson arrived at 6:03 p.m. and Mike Horn had an excused absence. Mark Mussman, Erik Mack, Kari Nielsen, Laura Mooney, and Donna Valade represented the Flathead County Planning & Zoning Office.
There were 33 members of the public in attendance.	
APPROVAL OF MEETING MINUTES <i>6:00 pm</i>	Nogal made a motion, seconded by Sirucek, to approve the October 10, 2018 meeting minutes. Motion carried by roll call.
PUBLIC COMMENT <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> <i>6:00 pm</i>	<u>Robert Spokely</u> , 700 White Basin Rd., came forward to encourage the board to put the Consolidation of Agricultural Zones back on the agenda for a future meeting. He felt there would have been more support had people known about it. He was concerned the land in the timber areas were going to waste and felt it wasn't being taken care of. <u>Scott Santa</u> , 3621 Eagles Nest Rd., spoke in favor of reviewing the text amendment recommendation for the consolidation of the AG zones. As a realtor, he had seen numerous examples of people having 40 acres and not taking care of it.
DISCLOSURE OF ANY BOARD CONFLICT OF INTEREST <i>6:03 pm</i>	None
POEPEL ZONE CHANGE (FZC-18-16) <i>6:04 pm</i>	A zone change request from Sands Surveying on behalf of Richard O. Poeppel for property located at 3350 Highway 93 West near Whitefish, MT in the Blanchard Lake Zoning District. The proposal would change the zoning on a parcel containing approximately 25.774 acres from AG-40 (Agricultural) to SAG-10 (Suburban Agricultural).

STAFF REPORT <i>6:04 pm</i>	Kari Nielsen reviewed staff report FZC-18-16 for the board.
BOARD QUESTIONS <i>6:05 pm</i>	None
APPLICANT PRESENTATION <i>6:05 pm</i>	Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicant. He explained the applicant would like to split the property so he could get some funds to assist with medical issues. He currently hayed a portion of his property and that would still be allowed.
BOARD QUESTIONS <i>6:06 pm</i>	None
AGENCY COMMENTS <i>6:06 pm</i>	There were no public agencies present. Larsen reviewed the written comments and pointed out there had been no adverse comments received.
PUBLIC COMMENT <i>6:07 pm</i>	None
APPLICANT REBUTTAL/ COMMENTS <i>6:07 pm</i>	Richard Poeppel, 3350 Highway 93 W., said the reason he needed to split the property was because he was unable to work due to health issues and needed to sell in order to save his other piece of property. He said they had tried to farm the subject property but it was not agriculturally and/or economically viable.
STAFF REBUTTAL/ COMMENTS <i>6:09 pm</i>	
MAIN MOTION TO ADOPT F.O.F. (FZC-18-16) <i>6:09 pm</i>	Stevens made a motion, seconded by Sirucek, to adopt staff report FZC-18-16 as findings of fact.
BOARD DISCUSSION <i>6:09 pm</i>	None

**ROLL CALL TO
ADOPT F.O.F.
(FZC-18-16)
6:09 pm**

Motion was passed on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-18-16)
6:10 pm**

Lake made a motion, seconded by Schlegel, to recommend approval of FZC-18-16 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:10 pm**

Stevens pointed out that the zone change was in line with the Flathead County Growth Policy. He said when he made land use recommendations, he looked at the health and safety concerns. He did not see any issues for this request. He noted the applicant was a part of the community and if it helped increase his welfare, it benefited the welfare of the community.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-18-16)
6:13 pm**

The motion passed unanimously on a roll call vote.

**PROSPECT
BUSINESS PARK
(FPP-18-07)
6:13 pm**

A request from David & La Zetta Krause with technical assistance from Sands Surveying, Inc. for preliminary plat approval of Prospect Business Park, a proposal to create 20 commercial lots, in two phases, on 40.78 acres. Each lot would be served by individual wells and septic systems. The property is located on Pioneer Road, just east of the Glacier Park International Airport in an area zoned 'Scenic Corridor'.

**STAFF REPORT
6:14 pm**

Kari Nielsen reviewed staff report FPP-18-07 for the board.

**BOARD
QUESTIONS
6:18 pm**

None

**APPLICANT
PRESENTATION
6:19 pm**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicant and said they concurred with the staff findings and conditions. He pointed out the property was unzoned but fell into the Helena Flats Neighborhood Plan. The Neighborhood Plan designated the property for commercial use, therefore, was in compliance with the plan. It complimented the light industrial subdivision that was directly to the east and fit well with the airport and railroad use on the west side.

**BOARD
QUESTIONS**
6:20 pm

Sirucek questioned where the wetland jurisdiction started and if there was a setback associated with it. Mulcahy confirmed there was not.

Sirucek wondered if there had been ground water testing done and if the elevation of the saturated level was at approximately 8 feet. Mulcahy confirmed that testing had been done and deferred to Hyde as the civil engineer to answer further questions.

Hyde responded that the ground water depended on the elevation of the ground. He said 8' was average on the higher ground.

**AGENCY
COMMENTS**
6:22 pm

There were no public agencies present. Larsen acknowledged the agency written comments that had been received.

**PUBLIC
COMMENT**
6:22 pm

Chris Hall, 115 W. Evergreen Dr., spoke in favor of the application but was concerned about the ground water being close to the surface and possible contamination from hazardous waste that may come from certain businesses.

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-18-07)**
6:23 pm

Sirucek made a motion, seconded by Nogal, to adopt staff report FPP-18-07 as findings of fact.

**BOARD
DISCUSSION**
6:23 pm

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-18-07)**
6:23 pm

Motion unanimously passed on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FPP-18-07)**
6:24 pm

Schlegel made a motion, seconded by Lake, to recommend approval of FPP-18-07 to the Board of County Commissioners.

**BOARD
DISCUSSION**
6:24 pm

Nogal addressed the concern raised by the Helena Flats Land Use Advisory Committee and wondered who looked in to possible water and light pollution. Staff said they deferred to the submitted DEQ report. They would have to get DEQ approval before getting final plat. Nielsen pointed out, in regards to the dark sky lighting, the property was in an unzoned area where there were no light standards.

Stevens also had the concern over the dark sky lighting and questioned if a condition could be placed on it but realized there was no finding of fact to support it.

Nielsen confirmed it was not recommended to make conditions without a finding of fact. She also reminded them all conditions had to be met at the time of approval, so as long as there wasn't lighting at time of approval, the office did not force conditions after the lots had been created.

Stevens mentioned he did not know how critical it would be since they were across the road from the International Airport.

Sirucek had a concern regarding the wetland. Wetland jurisdiction meant it had to meet federal criteria as far as type of aquatic vegetation, aquatic soils, and water table. He said if the wetland was adjacent to a stream or river, there would be a 20' setback for a building permit. This subdivision did not have a setback. For a general protection of the wetland site from storm runoff etc., he wanted there to be a 20' setback assigned to the wetland in lot 18 [as a condition].

**MOTION TO ADD
CONDITION**

6:28 pm

Sirucek motion, seconded by Nogal, to add a condition regarding a buffer of a no build zone around the wetland on lot 18.

**BOARD
DISCUSSION**

6:28 pm

Stevens questioned if the condition would mean that if somebody wanted to build near the wetland, it would require them to have a 20' setback. Sircek said that it would be required if it was near a river or a stream. Stevens asked if there was a stream present. Sirucek said it was an abandoned stream channel. Stevens asked if there was a stream present and Sirucek answered that there was an underground stream. Schlegel said it did not count. Sirucek said under the general protection of wetlands, he suggested there be a setback.

Stevens asked the applicant how a 20' setback would impact them. Mulcahy said they did not believe it would impact the drain field, mixing zones, or zone locations. They did not believe that the clients would build that far south on that lot and did not feel it would have an impact. Stevens also questioned staff if there was a finding would back up the proposed condition. Staff said that the pertinent finding would be #11 and possibly a modified condition #22 to include a 20' setback. The condition now showed it as a no build zone but could be modified.

Larsen said he did not have a problem with the condition proposed but felt it may be better to modify condition #22. It was suggested that the initial motion be withdrawn so that they could motion to change it.

**MOTION
WITHDRAWN**
6:32 pm

Motion withdrawn

**MOTION TO
AMEND
CONDITION #22**
6:32 pm

Sirucek motioned, seconded by Nogal, to amend condition #22 to include a 20' buffer around the wetland area on lot 18.

**BOARD
DISCUSSION**
6:32 pm

Stevens stated he was going to vote no because he did not feel it was necessary. He felt like they would be rewriting federal criteria if there was no stream present.

Schlegel agreed with Stevens and said there were already laws stating what to do and they should be in compliance.

**ROLL CALL TO
ADD CONDITION**
6:34 PM

Motion failed on a 2-5 roll call vote. Lake, Schlegel, Thompson, Stevens, and Nogal dissented.

**BOARD
DISCUSSION**
6:34 PM

Sirucek said he had mixed feelings about the application. One concern was that the soils on the site were about 18" of sand and gravel pits. The water level was up in those historical gravel pits. He stated septic tanks could be placed there but it was questionable the soil nutrients that may be trapped, especially with the soil density. He also brought up that there had been a lot of research done on the ground water in that area and that it moved fast so there was a cleansing affect. He felt that it was problematic to put wells and septic tanks in those type of conditions. At the same time, he felt it was a good use of that lot.

Larsen addressed the public comment by Hall regarding industrial waste being put in septic systems and stated it would be in violation of state law. He did feel like the subdivision would fit in nicely in the surrounding area and would be pretty low impact.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-18-07)**
6:38 pm

The motion passed unanimously on a roll call vote.

**REMMEL ZONE
CHANGE
(FZC-18-18)
6:39 pm**

A zone change request from Jeffrey B. & Carolyn G. Remmel for property located at 104 Abbey Road near Whitefish, MT in the Haskill Basin Estates Zoning District. The proposal would change the zoning on a parcel containing approximately 19.8 acres from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural).

**STAFF REPORT
6:39 pm**

Erik Mack reviewed staff report FZC-18-18 for the board.

**BOARD
QUESTIONS
6:42 pm**

Larsen questioned which F.O.F. were questionable.

Sirucek wondered if it was considered spot zoning. Mack discussed similar zones vs. dissimilar zones. He said there were similar uses in the area. Most of the zones in the area were privately owned timberlands and he continued to further explain spot zoning.

**APPLICANT
PRESENTATION
6:44 pm**

Carolyn Remmel, 104 Abbey Road, read from a packet she submitted to the board and gave a history of the zone change that had occurred at a time when they were not in the area and could not speak their opposition. She discussed the property zoning and covenants at the time they had purchased their property. They felt the new zoning had been pushed on them and they had always planned on giving their sons some of the land. She pointed out nonconforming parcels in the vicinity that were AG-20 zones. She felt their request was reasonable and was suitable for the surrounding area.

**BOARD
QUESTIONS
6:57 pm**

Sirucek asked how the applicant felt about finding #5. She said she disagreed with that finding, as well as findings 2, 4, and 8.

Jeff Remmel, 104 Abbey Road, said he found it unusual that the planning office found a number of points to be unfavorable. He said the neighbors were very supportive, with a few exceptions, including neighbors who had smaller parcels and were not in zoning compliance. He stated that they were bothered by a number of comments that were just not factual.

Schlegel asked who shared the maintenance of the road. Carolyn Remmel said they maintained Abby Road with others as well as Haskill Creek with Stoltz. Schlegel made it clear that it was not a public road.

Schlegel worked for Stoltz and said there were places that were only one lane on Haskill Creek. Schlegel said he knew the road really well and he was in agreement with the report. He said for, the most part, he agreed with them but there were a couple of narrow areas and the staff had to go off of what they saw.

**AGENCY
COMMENTS**
7:05 pm

No agencies were present to comment. Larsen reviewed the written comments

**PUBLIC
COMMENT**
7:06 pm

Jeff Beck, 1060 Cameron Lane, read a letter from Whitefish County Water and Sewer District in opposition of the zone change. It discussed the creeks and tributaries in the area and their work to conserve it. The letter expressed how the zone change could be detrimental to the water quality. He also spoke in opposition as a neighbor and was concerned about the future of the area if people started to change zoning.

Glenda Gehri, 285 Abbey Rd., spoke in support of the application. They had a 20 acre parcel between their property and the Remmel's property. She said the location of the homes would not affect Walker Creek in any way.

Richard Gehri, 285 Abbey Rd., spoke in support of the application and felt it would have minimal impact. He addressed the road concern and said they were able to get two cars on the road, even during the winter. He said there would be minimal impact from the two sons being allowed to build there.

Ronald Bunner, 1019 Haskill Basin Rd., spoke in opposition of the application. He presented a map of Walker Creek and was concerned about subdividing the acreage in the area. He was concerned about the water quality from the septic systems getting in to the Haskill Creek. He said there were 3 wells below the subject property. There were also properties that had water rights to Haskill Creek and was concerned it would ruin the water for others. He confirmed that Haskill Creek Road was very narrow

Paul Stafford, 204 Renagade Ridge Rd., spoke in opposition of the application. He had a 10 acre and a 5 acre parcel that was bought prior to the AG-20 zoning.

**APPLICANT
REBUTTAL/
COMMENTS**
7:17 pm

Jeff Remmell said Walker Creek did not touch his property. His wells came out very high quality. He said none of his neighbors were pulling water out of Walker Creek and felt that was a false statement.

Carolyn Remmel wanted to ask how many people in opposition had 20 acres. She said they would have subdivided it prior to the AG-20 being put in but they were blocked by people who had smaller acreage who wanted to dictate the zoning. She said they would have done it had they had the opportunity and she did not feel like it was fair.

Jeff Remmell said he would not develop the acreage; they only wanted to give their sons some acreage. He felt the issues had been addressed.

**STAFF
REBUTTAL/
COMMENTS**
7:20 pm

None

**BOARD
DISCUSSION**
7:20 pm

Sirucek asked if the staff had done a site review of the road. Mack said he had driven up there. Sirucek's memory was that there were a few narrow sections of the road. Mack agreed there was enough to notice it.

BREAK
7:21 pm

Break to review the written public comments.

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-18-18)**
7:35 pm

Schlegel made a motion, seconded by Nogal, to adopt staff report FZC-18-18 as findings of fact.

**MOTION TO
AMEND
FINDING #2**
7:35 pm

Stevens made a motion, seconded by Lake, to amend finding number #2 to state the following:

2. The proposed map amendment is not specifically designed to secure safety from fire because it would allow for additional houses in the WUI, and Abbey Road and Haskill Creek Road are narrow, one lane, mountain, gravel roads. ~~which would make it difficult for emergency vehicles to access the property in the event of a wildfire fire.~~

**BOARD
DISCUSSION**
7:36 pm

Stevens wanted to amend the finding because he felt there was a conceptual language problem when it came to Haskill Road, it was considered a one lane road but the pictures and the testimony heard verified that an emergency vehicle would be able to get down that road.

Sirucek suggested changing the context rather than striking it. They further discussed how the finding should read. Schlegel agreed with Stevens that the narrow spots were far and few in between and felt that the initial motion sufficed in addressing emergency vehicle passage.

**ROLL CALL TO
AMEND
FINDING #2**
7:39 pm

Motion was unanimously passed on a roll call vote.

**MOTION TO
AMEND
FINDING #4**
7:40 pm

Stevens made a motion, seconded by Nogal, to amend finding number #4 to state the following:

4. The proposed zoning map amendment could have a negative impact on public health, safety and general welfare because the proposal would allow for additional houses on Abbey Road and Haskill Creek Road, both of

which are narrow, one lane, mountain, gravel roads. ~~which would make it difficult for emergency vehicles to access the property in the event of an emergency.~~

**BOARD
DISCUSSION
7:42 pm**

Schlegel said he liked the changes suggested but wondered if they could add the word “occasionally”. He said it was a two lane road that occasionally narrowed and they needed to convey that. Stevens and Schlegel discussed at length semantics and accuracy of the road description. Schlegel said it was not a one lane road because logging trucks could pass on them but there were areas that you would need to pull over. He said it was about 2-3% of the road. Mack agreed that it was not the whole road. Larsen felt that condition #2 needed to be revisited. There was further discussion on the exact verbiage to be used.

**MOTION
WITHDRAWN
7:45 PM**

Stevens, seconded by Nogal, withdrew the motion.

**MOTION TO
AMEND
FINDING #4
7:46 pm**

Nogal made a motion, seconded by Sirucek, to amend finding number #4 to state the following:

4. The proposed zoning map amendment could have a negative impact on public health, safety and general welfare because the proposal would allow for additional houses on Abbey Road and Haskill Creek Road, both of which *occasionally* are narrow, one lane, mountain, gravel roads. ~~which would make it difficult for emergency vehicles to access the property in the event of an emergency.~~

**BOARD
DISCUSSION
7:46 pm**

None

**ROLLCALL TO
AMEND
FINDING #4
7:46 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMEND
FINDING #2
7:47 pm**

Nogal made a motion, seconded by Sirucek, to amend finding number #2 to state the following:

2. The proposed map amendment is not specifically designed to secure safety from fire because it would allow for additional houses in the WUI, and Abbey Road and Haskill Creek Road are *occasionally* narrow, one lane, mountain, gravel roads. ~~which would make it difficult for emergency vehicles to access the property in the event of a wildfire fire.~~

**BOARD
DISCUSSION
7:47 pm**

None

**ROLLCALL TO
AMEND
FINDING #2
7:47 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMEND
FINDING #5
7:48 pm**

Nogal made a motion, seconded by Schlegel, to amend finding number #5 to state the following:

5. The proposed zoning map amendment does not appear to facilitate the adequate provision of transportation because **the existing of occasional one lane gravel roads. does not appear adequate to accommodate the change in zoning, and the additional traffic.**

**BOARD
DISCUSSION
7:49 pm**

None

**ROLLCALL TO
AMEND
FINDING #5
7:50 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
STRIKE
FINDING #8
7:50 pm**

Schlegel motioned, seconded by Nogal, to strike finding #8.

**BOARD
DISCUSSION
7:50 pm**

Mack addressed that finding #8 was criteria that needed to be addressed. The board further discussed what exactly the finding should state.

**MOTION
WITHDRAWN
7:51 pm**

Schlegel withdrew his motion.

**MOTION TO
AMEND
FINDING #8
7:51 pm**

Nogal made a motion, seconded by Sirucek, to amend finding number #5 to state the following:

8. The proposal could have negative effects on motorized **transportation** because **the existing of occasional one lane gravel roads. does not appear adequate to accommodate the change in zoning, and the additional traffic.**

**BOARD
DISCUSSION**
7:52 pm

None

**ROLLCALL TO
AMEND
FINDING #8**
7:52 pm

Motion passed unanimously on a roll call vote.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-18-18)**
7:53 pm

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-18-18)**
7:54 pm

Lake made a motion, seconded by Schlegel, to recommend approval of FZC-18-18 to the Board of County Commissioners.

**BOARD
DISCUSSION**
7:54 pm

Stevens said when he had first looked over the application, he thought it was spot zoning until he read the definition of spot zoning. He addressed the concerns of safety but felt that if a couple of logging trucks could get up there, then fire trucks would be able to do so as well. His concerns had been addressed. Stevens also addressed the public concerns regarding a subdivision and said if an actual subdivision was to be put up there, there would have to be a county paved road and the cost would be enormous. The reason why it did not apply to this case was because it was an application for a zone change. He did not foresee any subdivisions heading up the mountain. He also addressed the evidence of parcels in the area that were non-compliant with only 20 acres. He took into consideration that the applicants had their property rights infringed on when their unzoned property had become zoned against their will. He said he had learned a lot from board members as well as the public testimony, and therefor would vote in favor of the zone change.

Schlegel said he understood the applicant had possibly been railroaded when the zone was changed against their will when they had always had intentions of splitting their property in the future. He also spoke of his experience with Renegade Road and had to put a culvert there to mitigate the water runoff. He felt the whole neighborhood needed to step up if they were concerned of water quality. In his professional experience, he knew that the water was not as affected as people were making it sound to be. He said he intended on voting for the zone change.

Mussman interjected that it would be good to talk about the fire danger.

Schlegel pointed out that it was in the middle of the woods but the applicants had utilized the Wildfire Fuels Reduction Program through the state. He felt that said a lot of them and pointed out that he knew a lot of the other neighbors had not done anything to assist with fire safety.

Mussman said it was an area that could be prone to extensive damage during a wildland fire. Schlegel acknowledged that Mussman was correct but also pointed out that it could be started by anybody up there, including somebody up there on an ATV or a campfire. Mussman said that criteria for safety measures needed to be addressed; while it was not in the flood zone, it was definitely in the fire danger zone.

Stevens said it was a legitimate concern anywhere in Western Montana. He felt it was more of a concern, to him personally, when addressing a subdivision with the ability to condition and address access issues. He pointed out that what was being addressed was a family currently living there, who had experience living in that area, had experience with proactive efforts, and wanted to give their two sons some property. He did not feel that this particular application presented those safety concerns.

Schlegel said Stoltz had done 100' of fire retention on both sides of the road a few years ago. He would love to see everyone out there do the same thing because it would help. There were people all over the valley that utilized that road for hunting and recreational activities [therefore presenting a higher risk].

Larsen said his biggest concern was the road and the findings on the road. He relied on the testimony and professional experience from Schlegel who had worked on the road and also as an EMT. Schlegel said he did not see a problem with the road. That satisfied Larsen's concern.

Sirucek said he had a problem with the F.O.F. regarding the road but felt it had been ironed out. He addressed the reoccurring concern he had regarding families wanting to do a family transfer and being forced to rezone, which he did not agree with. He did not see that there was any change of usage on the property. He was going to support the application.

Lake said he had come in to the evening with the same concerns that Stevens had (i.e. potential spot zoning) but felt it had been addressed with the testimony. The usage was not going to be changed and there were other parcels in the area that were smaller than 20 acres. He was in favor of the proposal.

ROLL CALL TO

The motion passed unanimously on a roll call vote.

**RECOMMEND
APPROVAL
(FZC-18-18)
8:12 pm**

**CALAWAY ZONE
CHANGE
(FZC-18-19)
8:13 pm** A zone change request by Alex Olson on behalf of Tim J. Calaway & Sherrie L. Calaway and Richard A. & Nancy J. Whitaker for property located at 141 MT Highway 83 near Bigfork, MT within the Bigfork Zoning District. The proposal would change the zoning on a parcel containing approximately 5.0 acres from SAG-5 (Suburban Agricultural) to I-1 (Light Industrial). The applicant states the reason for the proposed zone change is to construct storage units to satisfy the demand for more storage in the area.

**STAFF REPORT
8:13 pm** Donna Valade reviewed staff report FZC-18-19 for the board.

**BOARD
QUESTIONS
8:16 pm** None

**APPLICANT
PRESENTATION
8:16 pm** Alex Olson, 33539 Westview Dr., had a buy sell on the property and intended on putting storage units on the property. He felt like it was a big demand in Bigfork right now.

**BOARD
QUESTIONS
8:16 pm** None

**AGENCY
COMMENTS
8:16 pm** There were no public agencies present. Larsen acknowledged the written public agency comments that had been received.

**PUBLIC
COMMENT
8:17 pm** None

**STAFF
REBUTTAL/
COMMENTS
8:17 pm** None

APPLICANT None

**REBUTTAL/
COMMENTS**

8:17 pm

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-18-19)**

8:17 pm

Sirucek made a motion, seconded by Schlegel, to adopt staff report FZC-18-19 as findings of fact.

**BOARD
DISCUSSION**

8:17 pm

None

**ROLL CALL TO
ADOPT F.O.F.
(FZC-18-19)**

8:17 pm

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-18-19)**

8:18 pm

Sirucek made a motion, seconded by Nogal, to recommend approval of FZC-18-19 to the Board of County Commissioners.

**BOARD
DISCUSSION**

8:18 pm

Stevens acknowledged that the Bigfork Land Use Committee had unanimously supported this proposal. He felt having storage units next to the green box area was an appropriate land use for an appropriate zoning.

Sirucek said he had grown up a couple of miles from that area and was familiar with the site. He was in agreement with Stevens that it was an appropriate spot for storage units, visually as well, as access.

Nogal shared her personal experience, having just moved, that storage units next to a dump site was an excellent idea. She was in support of the proposal.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-18-19)**

8:20 pm

The motion passed unanimously on a roll call vote.

**WEST
EVERGREEN
ESTATES
(FPP-18-05)
8:20 pm**

A request from Michael V. Seaman and Garry D. Seaman with technical assistance from Sands Surveying, Inc. and Carver Engineering for preliminary plat approval of West Evergreen Estates, a proposal to create 109 residential lots, in two phases, on 33.557 acres. The subdivision would be served by the Evergreen Water & Sewer District. The properties are located along River Road and West Evergreen Drive, west of Highway 2 in an area zoned R-4 (Two-Family Residential).

**STAFF REPORT
8:21 pm**

Erik Mack reviewed staff report FPP-18-05 for the board.

**BOARD
QUESTIONS
8:25 pm**

Sircuk asked if there had been a deviation from the neighborhood plan. Mack said the neighborhood plan was created in 1986 and ran through 2010 but had not been updated. A lot of the goals, texts, policies, etc. were outdated with things that had not been addressed. He said that it may not comply with the map but one could argue it complied with the text, goals, and policies. Sirucek asked if it fit will with R-3 zoning and Mack replied that it did.

Lake asked if there were any comments from the Sheriff's Department or the Fire Department. Mack said he had solicited comments but did not receive any from either.

**APPLICANT
PRESENTATION
8:27 pm**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the developer and land owner. This was round two on this particular development, which had come through about a year ago as a mobile home park. That project had stalled out with BOA with a tied vote. They then went back to the drawing board to present a proposal as a traditional subdivision. It would be a lot and block subdivision with easements, county standard roads, and right of ways, along with other requirements. He discussed the easement agreement and details that they had entered in to with the school district. He said the development greatly exceeded the parkland dedication. He also addressed that the traffic was the biggest concern in the past. They redid the traffic study for the new development and also requested a second engineer to do a peer review as well. He discussed some of the data in those reports. He also addressed the concern of waste water and storm water drainage.

**BOARD
QUESTIONS
8:34 pm**

Nogal asked what the red dotted line meant on the map. Mulcahy clarified that the red dotted line on the plat map was the pedestrian path that would be constructed. He also explained the 30' easement on the map. Nogal asked about the timing on phase I and phase II. Mulcahy said, if approved, they would start working on getting their approvals through DEQ and Evergreen Sewer and Water. Those approvals typically took 6 months to a year. Final plat could potentially be coming in around 3 years and phase two could be an additional 2 years after that. Nogal asked if the intention was to build stick

built homes. Mulcahy said the lots were like any other lots, which zoning allowed stick built or manufactured homes. Nogal wanted confirmation that the lots were for sale and Mulcahy confirmed that they were. There would be a final plat with a legal description for each lot that could be sold.

**AGENCY
COMMENTS**
8:36 pm

No public agencies were present to comment. Larsen reviewed the agency comments written that had been received.

**PUBLIC
COMMENT**
8:37 pm

Bo Woods, 512 Scenic River Way, spoke in opposition of the application. He was concerned traffic on River Road during winter conditions, when people were avoiding the large hill on W. Evergreen. He was also concerned that the traffic report recommended the railroad assist with the traffic problem but also stated that they would probably not do anything about it.

William Kuchera, 109 Ritzman Lane, spoke in opposition of the application. He asked for confirmation that the lots would be for sale and the developer would not be able to rent them out. Larsen explained that it was a normal subdivision application where the lots would be for sale but afterwards could be rented out. Each lot was its own separate lot [unlike a mobile home park]. Kuchera asked why go back to an almost R-3 zoning when it's an R-4 zone. Larsen explained that it was zoned R-4 now and there was no zone change application at this point in time.

Lance Vitt, 180 River Road, spoke in opposition of the application. He was concerned that the traffic on River Road and W. Evergreen had not been addressed. He was concerned that the subdivision would become a trailer court posing as a subdivision. Larsen explained that the zoning determined what was allowed and not allowed in the subdivision. Vitt was concerned that Seaman would retain the lots and then rent out the homes. Larsen said, as a board, they could not prevent an owner from retaining a lot. Vitt said that was what Seaman was going to do.

Jelene Thomas, 101 W. Evergreen Drive, spoke in opposition of the application. She was concerned that the traffic was bad and it would only get worse.

Verna Green, 13 E. Nicklaus, spoke in opposition of the application. She wanted the same conditions put on the subdivision that had been put on with the conditional use permit proposal. She was concerned about traffic, crime rate, and decrease of property value.

Ian Wargo, 3095 Sweetgrass Lane, spoke in opposition of the application. He said a subdivision was more in line with what he had wanted to see all along. He acknowledged that the number of lots were not as many as it could have been but was concerned that the applicant's intention was to rent them. He

pleaded that the CC&Rs had the same condition as the CUP (i.e. manufactured home age restrictions).

Joe McMaster, 3215 Sweetgrass Lane, spoke in opposition of the application. He agreed with the previous comments hoping to have the same conditions placed on the subdivision as with the CUP application. He was concerned that it was still going to be a mobile home park that was not called a mobile home park.

Sherry Sheme, 3238 Sweetgrass Lane, spoke in opposition of the application. She requested that there be a buffer between the developments because she was concerned that there was a difference in the grade of development. She felt these things had been negotiated through the CUP process and now they had lost them.

Robin Treat, 89 W. Evergreen Drive, said he was in opposition of the application and was in agreement with what others had shared. He was concerned about the safety of the school with access to the school

Josh Smith, 3077 Sweetgrass Lane, questioned if setback regulations were still going to be in place if they were non-permanent structures. He was concerned that there would be structures placed directly on his fence.

Jacque Anders, 40 Parklane Dr, said her road entrance was right in front of the entrance of the subdivision. She spoke in opposition of the application and was concerned about traffic as it was already bad. She was also concerned about property values possibly decreasing.

Chris Hall, 115 W. Evergreen Drive, spoke in opposition of the application. He wished the zone had never been changed and wished it was an extension of River Place. He asked that some of the same conditions be placed on such as permanent foundations and age limitation of manufactured homes. He asked that nothing spiteful be developed.

Rachel Woods, 512 Scenic River Way, spoke in opposition of the application. She was concerned about traffic. She said that the traffic study did not address River Road.

**STAFF
REBUTTAL
8:59 pm**

Mack explained that conditions could not be placed on a standard subdivision application without findings to address them.

He also responded to the question earlier regarding setbacks that the setbacks would apply in R-4 zoning.

Larsen asked that he explain what manufactured housing would be allowed in R-4 zoning. Mack replied that class A and class B would be allowed and read

for the board the definitions of each class. Mussman inserted that class A manufactured homes were permitted uses in any single district that a single family residence is allowed. It was treated the same as a stick built home.

Mack addressed that condition #20 needed to be stricken from the report.

BREAK
9:03 PM

Board took a break to review written public comments received prior to meeting.

**APPLICANT
REBUTTAL/
COMMENTS**
9:18 PM

Mulcahy said the traffic study was thorough and looked at all the major intersections that contributed to the area of concern.

Stevens asked Mulcahy to confirm that, per the traffic study, the traffic influx from the subdivision would not change the current traffic rating. Mulcahy said that it would not and referenced the table that data came from. Stevens asked Mulcahy to explain the impact a change of rating [i.e. to an "F" rating] would do to the proposal. Mulcahy said it would have affected the traffic study and would have proposed recommendations to help with the traffic impact.

Stevens also asked if the engineer had any communications with the railroad. Mulcahy replied he knew that he had placed a camera to track the cars and traffic impact.

**MAIN MOTION
TO ADOPT F.O.F.**
(FPP-18-05)
9:23 pm

Nogal made a motion, seconded by Stevens, to adopt staff report FPP-18-05 as findings of fact.

**BOARD
DISCUSSION**
9:23 pm

Nogal asked if this was the time to change the conditions as requested by Staff and Larsen had said no.

**ROLL CALL TO
ADOPT F.O.F.**
(FPP-18-05)
9:23 pm

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL**
(FPP-18-05)
9:24 pm

Stevens made a motion, seconded by Lake, to recommend approval of FPP-18-05 to the Board of County Commissioners.

BOARD

Stevens felt it was a pretty good standard subdivision with some extra parks

DISCUSSION**9:24 pm**

and green space. He brought up that he liked the easement and agreement that they had with the school and it seemed the school was in support of it as well (or they wouldn't have granted the easement). He saw an affordable housing subdivision that had direct access to a school. He was in favor of the proposal because it presented some opportunities for family's looking for affordable housing with access to public services. He understood traffic flow was an issue but brought up that there were options to go east, west, or south. He expressed his passion to see affordable housing brought in and felt was badly needed in our county. He also addressed that there was a stigma attached to manufactured housing. There had been occasions where he witnessed stick built homes not up to the quality that he had witnessed in a manufactured home factory.

**MOTION TO
STRIKE
CONDITION #20
9:32 PM**

Sirucek made a motion, seconded by Nogal, to strike condition #20.

**BOARD
DISCUSSION
9:33 PM**

None

**ROLL CALL TO
STRIKE
CONDITION #20
9:33 PM**

Motion was passed unanimously on a roll call vote.

**BOARD
DISCUSSION
9:33 PM**

Sirucek agreed with Stevens on many points but said the bottom line for him was that there was a safety problem currently and it would only become a significantly bigger safety problem. He felt it was unfortunately that Abelin did not address some possible alternatives in his report. For that reason, he would not be able to support the recommendation.

Nogal said she was trying to like the changes that had been made to the subdivision and wanted to respect how many times the applicant had gone through the process. She felt that people confused affordable with section 8 housing. She was concerned that if there were other types of homes in the subdivision, besides stick built homes, how one could enforce a pride in ownership. She said it came down to whether there was a strong HOA that made it happen. She said she did not know how to get her head wrapped around the traffic issue; it just broke her heart. She understood the value of what the Seamans were trying to do but was trying to work her way through it without ignoring the respect she had for the neighbors.

Schlegel said he understood where people were coming from but the laws

made them “stuck.” He would have liked to see the homes on foundations. He would like to see a buffer zone on the south. He was torn. He also agreed that the county needed places like this. He also understood the neighbors wanting to make sure that it would be taken care of. He was very torn.

Stevens asked if the application was turned down because of traffic, but the traffic report stated there would be no declassification, were they setting themselves up for a lawsuit? Larsen said that the standard that was used was a traffic engineer. Everything was above a level C. Larsen also stated that perception and what a traffic engineer does are two different things. Larsen understood the perception of traffic and clarified that things are normally not as bad as they seem.

Larsen mentioned that a subdivision had to have a certain amount of density to make it work with the municipal sewer and water. He stated that if personalities were taken out of the subdivision, it was not a bad looking subdivision. Larsen said it would probably be forwarded with a positive recommendation but there were a few things that they would like to see taken to the Commissioners from the developers. They wanted to see a green buffer on the south end. He appreciated the comment from Hall about keeping the trees. He also asked that they address the age of the units allowed in the development. Larsen recommended they work with the community. Larsen told the public that the Commissioners watched the videos and they took to heart the comments made by the public. He felt the developers needed to take some of that to heart as well. Larsen said he would support it in an act of good faith that they would take the comments seriously when taken forward to the Commissioners.

Larsen said they were not able to condition the development, they could have if it was a mobile home park, but the zoning was what dictated what was allowed. The applicants could still address some of those things and Larsen did not feel like it was too much.

Lake addressed anybody who might think that they took their decisions lightly, they were incorrect. These weighed heavily upon them and they understood the concerns. He recognized that the traffic was an issue but they had to look at the traffic study and take the engineers at their word. The decisions were not taken lightly.

Nogal mentioned that it would be a shame for this project to make them lose faith in future similar projects. She said that developers had a lot more on the line than just getting this passed.

Schlegel agreed with Nogal and liked that Larsen appealed to the developers to

take in to consideration what the neighborhood said and in good faith, go forward.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-18-05)
9:48 PM**

The motion passed 5-2 on a roll call vote. Thompson and Sirucek dissented.

**NEW BUSINESS
9:51 PM**

Mussman discussed the monthly informational packet that go out and ways to cut down waste and cost. It was decided that all hard copies would be double sided. They would receive staff reports, agency letters and comments, public comments, and any maps as hard copies. The rest will go on a CD. It was also suggested that the board members could come in and pick up the packets when they are too large to be mailed.

**OLD BUSINESS
9:56 PM**

None

**ADJOURNMENT
9:48 PM**

Nogal motioned, seconded by Schlegel, to adjourn. Next meeting will be held on December 12, 2018.



Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 12/12/2018